

ARTICLE III. MINORS*

Sec. 15-51. Legislative findings and declarations.

The city council hereby finds and determines that the adoption of this article is necessary to protect the public health, safety and welfare. The city council hereby adopts the following findings and declarations in support of this article:

- (a) Belmont is widely regarded as a safe community with quiet neighborhoods, excellent parks, libraries, recreation programs, schools, education and other opportunities for children and families;
 - (b) The above-described characteristics are essential elements of the factors making up the city's sense of collective safety, self-esteem and well-being;
 - (c) The city has a compelling municipal interest in protecting juveniles from crime, protecting the public from juvenile crime, assuring the exercise of parental control over and responsibility for children, and in reducing the opportunities for juvenile crime;
 - (d) The city has a strong interest in and a duty to safeguard its fiscal integrity for the sake of its residents.
- (Ord. No. 913, § 1, 12-10-96; Ord. No. 941, § 1, 2-23-99)

Sec. 15-52. Definitions.

The following words and phrases, whenever used in this article, shall be construed as defined in this section:

- (a) *Curfew hours* means, for the purpose of the daytime loitering curfew regulations, section 15-53, the hours of 8:30 a.m. to 1:30 p.m. on days when school is in session unless the school has authorized early dismissal of students.

*Editor's note—Ord. No. 941, § 1, adopted Feb. 23, 1999, amended Art. III in its entirety to read as herein set out. The provisions of former Art. III pertained to similar subject matter and derived from Code 1961, §§ 18.2, 18.3, 18.4, 18.5, and 18.6, and Ord. No. 913, § 1, adopted Dec. 10, 1996.

- (b) *Curfew hours* means, for the purpose of the juvenile curfew regulations, section 15-54, the hours of 11:00 p.m. on any day until 6:00 a.m. of the following day.
- (c) *Emergency* means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
- (d) *Guardian* means:
 - 1. A person who, under court order, is the guardian of the person or a minor; or
 - 2. A public or private agency with whom a minor has been placed by the court.
- (e) *Minor/juvenile* means any person under eighteen (18) years of age and is synonymous with the term juvenile for purposes of this article.
- (f) *Parent* means a person who is:
 - 1. A natural parent, foster parent, adoptive parent, or step-parent of another person; or
 - 2. At least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a minor.
- (g) *Public place* means any place to which the public or a substantial group of the public has access and includes but is not limited to, streets, sidewalks, alleys, highways, private residences left open to the public without the presence of adult supervision, and the common areas of schools, hospitals, apartments, office buildings, transportation facilities, parks, playgrounds, vacant lots, retail stores, shopping centers and restaurants.
- (h) *Remain* means to:
 - 1. Linger or stay, whether on foot or in a vehicle; or

2. Fail to leave premises when requested to do so by a peace officer or the owner, operator, or person in control of the premises.

(i) *Loiter* means to:

1. Stand idly around; or
2. To idle or linger whether on foot or in a vehicle.

(Ord. No. 913, § 1, 12-10-96; Ord. No. 941, § 1, 2-23-99)

Sec. 15-53. Daytime loitering curfew regulations—Prohibited activity.

(a) It is unlawful for any person under the age of eighteen (18) who is subject to compulsory education or to compulsory continuing education to remain, loiter, idle or wander upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places, public buildings, places of amusement and eating places, vacant lots or any unsupervised place between the hours of 8:30 a.m. to 1:30 p.m. on days when school is in session.

(b) This section does not apply:

- (1) When the minor is accompanied by his or her parent, guardian or other adult person having the care and custody of the minor; or
- (2) When the minor is on an emergency errand directed by his or her parent or guardian or other adult person having care and custody of the minor; or
- (3) When the minor is going directly to, or coming directly from his/her place of gainful employment, or an authorized appointment (e.g. dentist, physician, etc); or
- (4) To students who have permission to leave school campus or have in their possession a valid, school-issued, off-campus permit; or
- (5) When the minor is married or has been emancipated in accordance with California Family Code § 7000, et. seq.; or
- (6) When the minor is engaging in speech or religious rights protected by the United

States or California Constitutions, such as the free exercise of religion, freedom of speech, and the right of peaceful assembly, or

- (7) When the minor is attending an off campus official school, participating in a home school program, religious, recreational, educational, social, or other organized activity sponsored by the city, school district, or other private civic or religious organization that supervises the activity.

(Ord. No. 913, § 1, 12-10-96; Ord. No. 941, § 1, 2-23-99)

Sec. 15-54. Juvenile curfew regulations—Prohibited activity.

(a) It is unlawful for any person under the age of eighteen (18) years to remain, loiter, idle or wander upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places, public buildings, places of amusement and eating places, vacant lots or any unsupervised place within the city during the hours of 11:00 p.m. to 6:00 a.m. of the following day.

(b) This section does not apply:

- (1) When the minor is accompanied by his or her parent, guardian or other adult person having the care and custody of the minor; or
- (2) When the minor is on an emergency errand directed by his or her parent or guardian or other adult person having care and custody of the minor; or
- (3) When the minor is going directly to, or coming directly from his/her place of gainful employment or a medical appointment; or
- (4) When the minor is married or has been emancipated in accordance with California Family Code § 7000, et seq.; or
- (5) When the minor is engaging in speech or religious rights protected by the United States or California Constitutions, such as the free exercise of religion, freedom of speech, and the right of peaceful assembly, or

- (6) When the minor is attending an official school, religious, recreational, educational, social, or other organized activity sponsored by the city, school district, or other private civic or religious organization that supervises the activity, or when a minor is going to or returning home from, without any detour or stop, such activity.

(Ord. No. 913, § 1, 12-10-96; Ord. No. 941, § 1, 2-23-99)

Sec. 15-55. Enforcement procedure.

Before taking any enforcement action under this article, the law enforcement officer shall ask the minor's age and reason for being in a public place. The officer shall not issue a citation or make an arrest under this article unless the officer reasonably believes that an offense has occurred as provided in this article.

(Ord. No. 913, § 1, 12-10-96; Ord. No. 941, § 1, 2-23-99)

Sec. 15-56. Infractions, penalties, continuing violations.

(a) *Infractions.* Notwithstanding any other provision of this Code, when a person under the age of eighteen (18) is charged with a violation of this Code, and a peace officer issues a notice to appear to that minor, the charge shall be deemed an infraction.

(b) *Traffic division appearance.* Any person issued a citation for a violation of this article must appear before the traffic division of the juvenile court within the prescribed time to adjudicate the citation. Any person appearing before the traffic division of juvenile court must be accompanied by a parent or guardian. The hearing officer shall not adjudicate the citation otherwise and shall continue the matter until such time as the minor is accompanied by a parent or guardian.

(c) *Failure to appear before the traffic division.* Any person who has been issued a citation for a violation of this article who fails to appear before the traffic division of the juvenile court shall be reported to the state department of motor vehicles, and shall have his or her driver's license suspended until the citation is adjudicated. If the

person does not have a driver's license, the right to a license will be suspended until the citation is adjudicated.

(d) *First offense.* Upon adjudication of a first infraction the court shall impose a fine of thirty-five dollars (\$35.00). The court may also require twenty (20) hours of community service work, instead of or in addition to, the above referenced fine. The court may delay imposition of the fine and/or community service obligations for a period of sixty (60) days. If the juvenile attends all classes during those sixty (60) days and provides the court with a letter from the school verifying that attendance, the court may thereafter waive the fine and community service hours obligation.

(e) *Second offense within one (1) year.* Upon adjudication of a second infraction within one (1) year, the court shall impose a fine of seventy-five dollars (\$75.00) and may suspend or delay the issuance of a driver's license for sixty (60) days. The court may also require twenty (20) hours of community service work, instead of or in addition to, the above referenced fine.

(f) *Third offense and subsequent offenses within one (1) year.* Upon adjudication of third and subsequent infractions within one (1) year, the court shall impose a fine of one hundred fifty dollars (\$150.00) and may suspend or delay the issuance of a driver's license for ninety (90) days. The court may also require twenty (20) hours of community service work, instead of or in addition to, the above referenced fine.

(g) *Failure to appear.* At the adjudication of a citation for which an offender initially failed to appear, the court shall be required to impose community service work and a fine.

(Ord. No. 913, § 1, 12-10-96; Ord. No. 941, § 1, 2-23-99)

Sec. 15-57. Responsibility of parents, guardian, etc.

It shall be unlawful for the parent, guardian, or other adult person having the care and custody of a minor under the age of eighteen (18) years to permit or allow such minor to remain, loiter, idle or wander upon the public streets, highways, roads, alleys, parks, playgrounds, or other public

grounds, public places and public buildings, places of amusement and eating places, vacant lots or other unsupervised places in violation of section 15-53 or 15-54 or this article.

(Ord. No. 913, § 1, 12-10-96; Ord. No. 941, § 1, 2-23-99)

Sec. 15-58. Cost recovery.

(a) Law enforcement personnel are authorized to temporarily detain any minor upon a reasonable suspicion based on articulable facts that the minor is in violation of this article, and to transport that minor to his or her place of permanent or temporary residence within the state, whether the place of residence is located within or without the jurisdiction of the city, or to the custody of his or her parent or guardian. A law enforcement officer may decide not to temporarily detain and transport a minor if he or she determines that the minor has a legitimate reason based on extenuating circumstances for violating this article.

(b) Upon the first violation of this article, the police shall issue to the minor a warning citation regarding the consequences of a second violation of this article. The police chief or his designated representative shall mail to the parents of the minor or legal guardian a notification that states that upon a second violation, the parents or legal guardian may be held liable for actual administrative and transportation costs. The parents or legal guardian must be required to sign and return the notification. This notification shall include a space for the explanation of any circumstances relevant to an applicable exemption from the fee as provided by subsection (c). This explanation shall be reviewed by the police chief or his designated representative. If the explanation is found to be insufficient, the representative may request a consultation with the parents or legal guardian for the purpose of discussing the circumstances claimed to be relevant to an applicable exemption.

(c) A fee for the actual costs of administrative and transportation services for the return of the minor to school, his or her place of residence, or to the custody of his or her parents, or legal guardian, may be charged jointly or severally to the minor, his or her parents, or legal guardian, in an

amount not to exceed those actual costs. Any person receiving a bill for police services pursuant to this article may, within fifteen (15) days after the billing date, file a request for hearing on validity of said charges. Any billing sent pursuant to this section shall inform the billed party of the right to hearing. The city manager, or his or her designee, shall act as the hearing officer. Within ten (10) days after the hearing, the hearing officer shall give written notice of the decision. The decision may:

- (1) Provide for waiver of the payment of the fee by the parents or legal guardian upon a determination that the person has made reasonable efforts to exercise supervision and control over the minor;
- (2) Provide for a determination of the ability to pay the fee and provide that the fee may be waived if neither the minor nor the parents or legal guardian has the ability to pay the fee;
- (3) Provide for the performance of community service in lieu of imposition of the fee; and
- (4) Provide for a waiver of the payment of the fee by the parents or legal guardian upon a determination that the parents or legal guardian has limited physical or legal custody and control over the minor.

Upon the filing of a request for hearing, payment of the bill for the police services shall be suspended until notice of the decision of the hearing officer. All amounts due to the city shall be paid within thirty (30) days after notice of the decision of the hearing officer.

(Ord. No. 913, § 1, 12-10-96; Ord. No. 941, § 1, 2-23-99)

Sec. 15-59. Letting rooms, etc., to minor prohibited; exceptions.

Any person or corporation owning, controlling or managing any hotel, motor court or trailer court in the City of Belmont, California, who rents or lets any room or rooms to, or allows any room or rooms to be occupied by any minor under the age of seventeen (17) years, shall immediately by telephone, and within twenty-four (24) hours

by written report, thereafter notify the Belmont Police Department of said fact unless said minor is accompanied by his or her parent, parents or legal guardian or other adult person having care, custody or control of the minor and the above-referenced adult is in attendance while the hotel, motor court or trailer court premises is in use by the minor or when the minor is married or has been emancipated in accordance with California Family Code § 7000 et seq.

(Ord. No. 913, § 1, 12-10-96; Ord. No. 941, § 1, 2-23-99)

Sec. 15-60. Minor possessing tobacco for use; prohibited.

It is shall be unlawful for any person under the age of eighteen (18) years to use, or to have in their possession for the purpose of using, any cigars or cigarettes made of tobacco, or to use tobacco in any form.

(Ord. No. 941, § 1, 2-23-99)

Secs. 15-61—15-66. Reserved.

**ARTICLE IV. SALE OF DRUG
PARAPHERNALIA TO MINORS AND
MINORS SOLICITATION OF ALCOHOLIC
BEVERAGE PURCHASE***

Sec. 15-67. Purpose.

The sale of alcohol, drugs and narcotics paraphernalia in business establishments, open to the public and frequented by minors, tends to induce acquisition and use by minors for smoking, injection or consumption of controlled substances and alcohol. Possession and use of controlled substances are prohibited or limited, by the Controlled Substances Act, California Health and Safety Code, Section 11000 et seq. It is the intent and purpose of this article to prohibit the sale of drug and narcotic paraphernalia to minors and thereby curb the use of illicit and harmful drugs

*Editor's note—Ord. No. 678, § 1, adopted June 24, 1980, added Ch. 28 to the Code; however, in order to classify the subject matter of the ordinance with similar provisions, the editor has redesignated the provisions as Ch. 15, Art. IV, §§ 15-67—15-71. Subsequently, Ord. No. 951, § 1, adopted July 11, 2000, amended Art. IV, §§ 15-67—15-71 and added § 15-72 to read as herein set out.

and narcotics by minors in the interest of their mental and physical health. It is the further purpose of this article to prohibit minors' solicitation of alcoholic beverage purchases within the city.

(Ord. No. 678, § 1, 6-24-80; Ord. No. 951, § 1, 7-11-00)

Sec. 15-68. Prohibited—Drug paraphernalia sales.

No owner, manager, proprietor or other person in charge of any room in any place of business selling, or displaying for the purpose of sale, any opium pipe or device that could be used to smoke or otherwise ingest any controlled substance, device, contrivance, instrument or paraphernalia for smoking, injecting or consuming any controlled substance, as specified in the California Health and Safety Code, other than prescription drugs and devices to ingest or inject prescription drugs, shall offer to sell, sell or give to any person under the age of eighteen (18) years such paraphernalia.

(Ord. No. 678, § 1, 6-24-80; Ord. No. 951, § 1, 7-11-00)

Sec. 15-69. Minors' purchase of drug paraphernalia prohibited.

A person under the age of eighteen (18) years shall not buy, offer to buy or accept as a gift any opium pipe, device, contrivance, instrument or paraphernalia for unlawfully smoking or injecting or consuming any controlled substance, prohibited under the Controlled Substances Act, other than devices to ingest or inject prescription drugs.

(Ord. No. 678, § 1, 6-24-80; Ord. No. 951, § 1, 7-11-00)

Sec. 15-70. Sign prohibiting sale of drug paraphernalia to minors.

Each owner, manager, proprietor or other person in charge of any room in any place of business selling, or displaying for the purpose of sale, any opium pipe, device, contrivance, instrument or paraphernalia for smoking, injecting or consuming any controlled substance as specified in the California Health and Safety Code, shall prominently display a sign therein, in letters not less